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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,585	12/18/2001	Heather Steiner Brown	10541-595	7916

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VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

EXAMINER

NEILS, PEGGY A

ART UNIT PAPER NUMBER

2875

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EK

Office Action Summary

Application No.

10/025,585

Applicant(s)

BROWN, HEATHER STEINER

Examiner

Peggy A. Neils

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-17 and 19-27 is/are rejected.
- 7) ☒ Claim(s) 18 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/16/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Oct. 14, 2004 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17 and 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izawa in view of Naylor.

Izawa shows a control unit for the headlight system of a vehicle, which includes a movable headlight 13, lamp switch 14, and an electronic control unit (ECU) 8. The ECU receives signals from sensors 9, 10 and 11 monitoring various parameters of the vehicle. As shown in the flow chart in Figure 4, linear vehicle acceleration S8 is used to adjust the positioning of the headlights and as shown in the flow chart of Figure 5, lateral acceleration S13 and S14 are calculated. Izawa does not show the sensors being a metallic sphere surrounded by a liquid within a housing. Naylor teaches that it

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is known in the art to use a sensor constructed as a metallic sphere 14, within a housing 15 surrounded by a fluid 16. Naylor in Column 1, lines 9-16 identifies using this system for angular position, translation accelerations, velocities and position of a vehicle with relation to inertial space. It would have been obvious to one skilled in the art that sensors of Izawa could be the metallic sphere configuration taught by Naylor as both references are directed to using sensors to monitor positioning parameters of vehicles to change a characteristic of vehicles. The locations of the sensors within the sphere would depend on the conditions being monitored. Both references are directed to moving vehicles. While Naylor may elaborate his discussions around a rocket vehicle the disclosure states that the invention may be used in many different types of vehicles (see column 3, beginning at line 31). Applicant states that Naylor is using his sensor to adjust the altitude of the entire vehicle as opposed to the claimed vehicle accessory. Naylor is being cited for its use of a particular type of sensor in a moving vehicle in adjusting a parameter of the vehicle, i.e. here it is the altitude. However, Naylor states that angular positions, translational accelerations or velocity measurements can be made with the device. See column 1, paragraph 1. Applicant has further argued that independent Claims 15 and 23 require that the sensor is mounted to the housing and measure the movement of the sphere relative to the housing while Naylor describes the use of a plurality of motor stator portions mounted to the sphere, not the housing. In response to applicant's argument, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or

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all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Izawa provides sensors, which are inputted into ECU 8. Izawa does not go into detail about the physical structure of the sensor. Naylor teaches that a particular sensor may be an inner sphere 14 supported within an outer sphere 15 by a layer of fluid. The fact that conductivity is required does not mean that the combination of references do not meet the limitations of the claims. The independent claims do not state what is being sensed from the movement of the sphere. Not until Claims 18 and 28 is the limitation set forth that the sensor(s) is measuring pressure exerted by the fluid. Claims 18 and 28 are considered to set forth allowable subject matter as set forth below.

Allowable Subject Matter

Claims 18 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Both Claims 18 and 28 are considered to have allowable subject matter because these claims set forth that the sensor measure the pressure exerted by the viscous fluid surrounding the metallic sphere.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woods is cited of interest for showing a vibration sensor. Cauchi is cited of interest for showing a motion sensor, which utilizes a spherical body, freely moveable within a chamber.

Any questions regarding this Office action should be directed to Examiner Neils at (571) 272-2377 on a Tuesday or Thursday.



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800